

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH

In Re: Department of Public Health
vs.
Roberta Fahlman, R.N.
Petition No. 931020-10-063

1993-1020-010-063

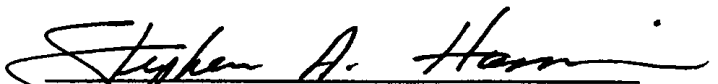
To: Attorney Jane B. Monahan
29 Stratford Road
West Hartford, CT 06117

FINAL MEMORANDUM OF DECISION

In accordance with Connecticut General Statutes Section 4-179, the attached proposed decision dated June 9, 1995 by hearing officer Catherine A. Hess is hereby adopted as the final decision of the Commissioner of the Department of Public Health in this matter. A copy of the proposed final decision is attached hereto and incorporated herein. Accordingly, Respondent's Registered Nurse license shall be reinstated on a probationary basis upon Respondent's completion of the conditions set forth in Paragraphs 1 and 5 of the Order. Respondent's license shall remain on probationary status for one year after its reinstatement, during which time Respondent shall fulfill the requirements set forth in Paragraphs 3 through 5 of the Order.

Date

11/8/95


Stephen A. Harriman
Commissioner
Department of Public Health

cc: Attorney Heather Wilson, Assistant Attorney General
Attorney Roberta A. Swafford, Staff Attorney
Warren Wollschlager, Bureau Chief
Stanley K. Peck, Director, MQA
Donna Buntaine Brewer, Chief, PHHO
Kathie Pirolo, Board Liaison

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH AND ADDICTION SERVICES
BUREAU OF HEALTH SYSTEM REGULATION
DIVISION OF MEDICAL QUALITY ASSURANCE

Roberta Fahlman, R.N.
514 Switch Road
Wood River Junction, R.I. 02894

Petition No.931020-10-063

PROPOSED FINAL DECISION

PROCEDURAL BACKGROUND:

On June 15, 1994, the Commissioner of Public Health and Addiction Services appointed this Hearing Officer to hear this case, and to recommend findings of fact, conclusions of law, and a proposed order upon the conclusion of the hearing. (Hearing Officer Exhibit 1).

The Department of Public Health and Addiction Services ("Department") moved that the Commissioner deny the request of Roberta Fahlman, a.k.a. Roberta Dieter, for reinstatement of her Connecticut Registered Nurse license number R28599. That motion was captioned Department's Objection To Applicant's Request For Reinstatement ("Motion"). (Department Exhibit 1). The Motion alleged that Ms. Fahlman's conduct outlined in Paragraphs 4, 5, and 6 of that Motion did not conform to the accepted practices of the nursing profession. (Department Exhibit 1).

The Department served the Notice of Hearing and the Motion on Ms. Fahlman by certified mail, return receipt requested. (Department Exhibit 1). The Department received the signed return receipt card on

June 29, 1994. (Department Exhibit 1). Ms. Fahlman did not file a written Answer to the Statement of Charges, but, through counsel at the hearing, orally responded to each of the Department's averments. (Transcript p.8).

The administrative hearing on this matter was held as scheduled on September 1, 1994, pursuant to the provisions of the General Statutes of Connecticut Sections 19a-9, 19a-10 and 19a-14(a)(6)(E). The hearing was conducted in accordance with Chapter 54 of the General Statutes and Section 19-2a-1, et seq., of the Regulations of Connecticut State Agencies (Public Health Code). All transcript references will, therefore, refer to the September 1, 1994 hearing date. Ms. Fahlman appeared at the hearing with counsel, Jane B. Monahan, Esq. Roberta Swafford, Esq. represented the Department. Both the Department and Ms. Fahlman presented evidence and conducted cross-examination of witnesses. This Proposed Final Decision is based entirely on the record and sets forth this Hearing Officer's recommended findings of fact and conclusions of law, and proposed order.

ALLEGATIONS AND ANSWER:

1. In Paragraph 1 of the Motion, the Department alleged that on July 12, 1976, Ms. Fahlman was issued Connecticut Registered Nurse license R28599. (Department Exhibit 1).

Ms. Fahlman admitted this allegation. (Transcript p. 8).

2. In Paragraph 2 of the Motion, the Department alleged said license lapsed on March 31, 1992 for failure to renew. (Department Exhibit 1).

Ms. Fahlman admitted this allegation. (Transcript p. 8).

3. In Paragraph 3 of the Motion, the Department alleged from November 1986 until June 1992, Ms. Fahlman worked as a registered nurse at South County Hospital, in Wakefield, Rhode Island. (Department Exhibit 1).

Ms. Fahlman admitted this allegation; she was an employee until June 25, 1992. (Transcript p. 8).

4. In Paragraph 4 of the Motion, the Department alleged that on or about June 21, 1992, while on duty at South County Hospital, Ms. Fahlman administered an incorrect amount of medication to a seven year old pediatric trauma patient. (Department Exhibit 1).

Ms. Fahlman admitted this allegation. (Transcript p. 8).

5. In Paragraph 5 of the Motion, the Department alleged that Ms. Fahlman reacted inappropriately to said error and/or failed to give a credible explanation for her conduct. (Department Exhibit 1).

Ms. Fahlman denied this allegation. (Transcript p. 8).

6. In Paragraph 6 of the Motion, the Department alleged that on or about June 22, 1992, South County Hospital terminated Ms. Fahlman due to her inability to demonstrate good judgment and her previous warning notices that were based on one or more of the following:

- a. administering an incorrect amount of medication to a seven year old pediatric trauma patient; and/or
- b. sleeping on duty; and/or
- c. leaving her department without permission and without appropriate coverage; and/or
- d. inappropriately confronting ambulance and rescue personnel. (Department Exhibit 1).

Ms. Fahlman denied Paragraph 6 of the Motion, except that she admitted hospital personnel advised her that she was terminated because of the medication error on or about June 22, 1992. (Transcript p. 8).

Ms. Fahlman admitted subparagraph 6a only to the extent that she was told she was being terminated because of the medication error. Ms. Fahlman denied the allegations of subparagraphs 6b, 6c and 6d. (Transcript p. 8).

7. In Paragraph 7 of the Motion, the Department alleged that by Ms. Fahlman's conduct referenced in Paragraphs 4, 5, and 6 above, she committed acts which did not conform to the accepted standards of practice of the nursing profession. (Department Exhibit 1).

Ms. Fahlman denied the allegations of Paragraph 7. (Transcript p. 8).

FINDINGS OF FACT:

1. On July 12, 1976, Ms. Fahlman was issued Connecticut Registered Nurse license number R28599. (Department Exhibits 1 and 2; Transcript p. 8).
2. Such Connecticut license lapsed on March 31, 1992, for failure to renew. (Department Exhibit 1; Transcript p. 8).
3. Ms. Fahlman applied for Connecticut Registered Nurse license reinstatement in August 1992. (Department Exhibit 3).
4. From November 1986, until June 1992, Ms. Fahlman was employed as a Registered Nurse at South County Hospital in Wakefield, Rhode Island. (Department Exhibit 1; Transcript p. 8).
5. On June 21, 1992, Ms. Fahlman administered an incorrect amount of medication to a seven year old pediatric trauma patient. (Department Exhibit 1; Transcript p. 8).
6. As soon as Ms. Fahlman realized she administered an overdose of medication, she called everyone concerned and notified them. (Transcript pp. 109-110; Department Exhibit 3, A4-A5).
7. Ms. Fahlman's reaction to the medication error was appropriate and within the accepted standards of behavior of the nursing profession. (Transcript pp. 137-140).
8. South Country Hospital terminated Ms. Fahlman's employment on or about June 22, 1992. (Department Exhibit 1; Transcript p. 8).

DISCUSSION AND CONCLUSIONS OF LAW:

Section 19a-14(a)(6)(E) of the Connecticut General Statutes provides that the Department shall have the following powers and duties with regard to the boards and commissions listed in subsection (b) which are within the Department of Public Health and Addiction Services.

The Department shall:

determine the eligibility of all applicants for permits, licensure, certification or registration, board upon compliance with the general statutes and administrative regulation. The Department may deny the eligibility of an applicant for a permit or for licensure by examination, endorsement, reciprocity or for reinstatement of a license voided pursuant to subsection (f) of section 19a-88, if the Department determines the applicant:

Has committed an act which if the applicant were licensed, would not conform to the accepted standards of the profession including but not limited to, ...negligence..., provided the commissioner or his designee, gives notice and holds a hearing, in accordance with the provisions of Chapter 54, prior to the denying of an application for permit or a license based upon this paragraph.

The Department sustained its burden of proof as to Paragraphs 1, 2, 3, and 4 of its Motion. Ms. Fahlman admitted that she administered an incorrect dosage of medication on June 21, 1992.

The Department did not sustain its burden of proof as to Paragraph 5. Ms. Fahlman provided a credible, consistent explanation for her conduct and reacted appropriately once she realized she had made a medication error.

The Department sustained its burden of proof with regard to subparagraph 6a, but not subparagraphs 6b, 6c, and 6d. There is no dispute that South County Hospital terminated Ms. Fahlman's employment because of her medication error. However, the Department did not present sufficient credible evidence to demonstrate that Ms. Fahlman engaged in the remainder of the conduct alleged in Paragraph 6.

The Department sustained its burden of proof with regard to Paragraph 7 solely with regard to the medication error, which did not conform to the accepted standards of practice of the nursing profession. The remainder of Ms. Fahlman's conduct at issue in this action did conform to such standards of practice. The testimony of Sylvia Smith was credible and persuasive on this point.

PROPOSED ORDER:

Based on the record in this case, the above findings of fact and conclusions of law, I respectfully recommend to the Commissioner that she take the following action with regard to Roberta Fahlman's request for reinstatement of her former Connecticut Registered Nurse license R28599:

1. Reinstatement Ms. Fahlman's Registered Nurse license after she successfully completes a minimum of six (6) contact hours of continuing education on how to avoid medication errors, such as the home study program offered by the University of Connecticut School of Nursing. Such continuing education hours shall be preapproved by the Department.

2. Place Ms. Fahlman on probation for one (1) year commencing upon the reinstatement of her license.
3. When her license is reinstated, require Ms. Fahlman to provide a copy of the Commissioner's final Memorandum of Decision to the Director of Nursing at her current place of employment. Ms. Fahlman shall also ensure that her Director of Nursing contact the Department to acknowledge receipt of such Memorandum of Decision.
4. During the full one (1) year probation, require that Ms. Fahlman ensure that her direct nursing supervisor submits monthly reports to the Department which address whether Ms. Fahlman is practicing in a safe and competent manner.
5. Require that all correspondence and reports described in Paragraphs 1, 3, and 4 above be addressed to:

Bonnie Pinkerton, Nurse Consultant
Department of Public Health and Addiction Services
150 Washington Street
Hartford, CT 06106

Respectfully submitted,

Catherine A. Hess

Catherine A. Hess, Hearing Officer
Department of Public Health and
Addiction Services

6/9/95

Date

0616Q/11-14;26-29



STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

November 25, 1997

Roberta Fahlman
5464 Country Road 79
Robstown, TX 78380

RE: Registered Nurse License No. R28599

Dear Ms. Fahlman:

Please be advised that you have fulfilled the terms of probation of your registered nurse license. The probationary status of your license has been removed with an effective date of November 1, 1997.

Should you have any questions concerning this matter, please contact me at 860-509-7400.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeffrey A. Kardys".

Jeffrey A. Kardys
Special Investigator
Health Systems Regulation - Monitoring & Compliance

JAK:

PROBEND.DOC

cc: Debra Tomassone, HSS, Licensure & Registration
Bonnie Pinkerton, Nurse Consultant, Health Systems Regulation
Board of Nurse Examiners for the State of Texas



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